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MAR 28 2001

DEPARTMENT OF
TELECOMMUNICATIONS & ENERGY

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(617) 305-3500

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EX PARTE OR LATE FILED

ARGEO. PAUL CELLUCCI
GOVERNOR

JANE SWIFT
LIEUTENANT GOVERNOR

JENNIFER DAVIS CAREY
DIRECTOR OF CONSUMER AFFAIRS
AND BUSINESS REGULATION

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REDACTED - FOR PUBLIC INSPECTION

March 27, 2001

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-B-204
Washington, D.C. 20554

Re: EX PARTE -- CC Docket No. 01-9: Application by Verizon New England, Inc., et al., for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in Massachusetts

Dear Secretary Salas:

Enclosed is the redacted copy of a confidential ex parte filing made by the Massachusetts Department of Telecommunications and Energy ("Department") on March 21, 2001 in CC Docket No. 01-9, the Federal Communications Commission's review of Verizon Massachusetts' application to offer long distance services in Massachusetts pursuant to § 271 of the Telecommunications Act of 1996. After discussions with both Verizon Massachusetts and Covad Communications Company, the Department agrees that all attachments to the March 21 filing should remain confidential.

In accordance with 47 C.F.R. § 1.1206 and the FCC's Public Notice issued on January 16, 2001 in this docket, an original and one copy of this letter are being filed with you, with

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copies to Ms. Susan Pié of the Policy and Program Planning Division of the Common Carrier Bureau, and ITS, Inc.

Sincerely,

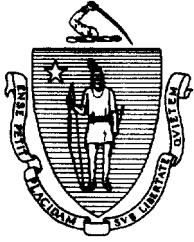
A handwritten signature in black ink, appearing to read 'Cathy Carpino', with a stylized flourish at the end.

Cathy Carpino, Hearing Officer

Enclosure

cc: Susan Pie, Policy and Program Planning Division
Common Carrier Bureau, Room 5-C224

Josh Walls, U.S. Department of Justice
Antitrust Division



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REDACTED-FOR PUBLIC INSPECTION
March 21, 2001

SENT VIA EXPRESS MAIL

Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

Re: EX PARTE -- CC Docket No. 01-9: Application by Verizon New England, Inc., et al., for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in Massachusetts

Dear Ms. Salas:

I. INTRODUCTION

In its supplemental application filed with the Federal Communications Commission ("FCC") on January 16, 2001, Verizon Massachusetts ("VZ-MA") provided a study of trouble reports filed by competitive local exchange carriers ("CLECs") for digital subscriber lines ("xDSL") provisioned within 30 days. This aspect of VZ-MA's performance is captured by the metric PR-6-01, which is also known as the "I-Code" rate (or simply "I-Codes"). According to VZ-MA, its I-Code study was designed to illustrate how this metric is affected by CLEC behavior. To be clear, VZ-MA reported the I-Codes for last fall pursuant to the

Carrier-to-Carrier Guidelines.¹ However, in this study, it adjusted these results by excluding “I-Codes that involved acceptance testing issues that could have been resolved at the time the CLEC tested the DSL loop” (Lacouture/Ruesterholz Supplemental Declaration at ¶ 95). VZ-MA provided details for each excluded order in an attachment to this declaration and distributed its carrier-specific results to the affected CLECs. PricewaterhouseCoopers LLP reviewed VZ-MA’s study and verified that VZ-MA had performed its I-Code study pursuant to the parameters set forth by the company. The Massachusetts Department of Telecommunications and Energy (“Department”) filed a supplemental evaluation recommending approval of VZ-MA’s application; however, it did not consider this VZ-MA study in determining that VZ-MA met its obligations set forth in § 271(c)(2)(B) of the Telecommunications Act of 1996.²

In both its initial and reply comments, Covad Communications Company (“Covad”) provided a detailed response to VZ-MA’s assertion that Covad improperly conducted acceptance testing for certain loops, resulting in issues that would have been revealed and could have been resolved at the time of such testing (Covad Comments, Clancy Decl.; Covad Reply Comments, Clancy/Berard Decl.). Based on Covad’s declarations, it appeared there were discrepancies between what Covad’s work logs indicated to be the source of the I-Codes and VZ-MA’s contention that the I-Codes could have been prevented had Covad properly performed the cooperative test for those loops. At the request of FCC staff, the Department, together with Covad and VZ-MA, undertook a review of the Covad orders in question and submits here a list of process improvements developed by VZ-MA and Covad during this review.³

¹ **Begin Proprietary*****

*****End Proprietary.**

² 47 U.S.C. § 271(c)(2)(B).

³ The Department will work with Covad’s counsel to provide the FCC with a redacted version of this letter, and attachments, as quickly as possible. The Department believes that much, if not all, of the substance of this letter is not proprietary; however, because the Department endeavored to provide the FCC with our findings as soon as we could, counsel for both Covad and VZ-MA were not given the opportunity for review prior to
(continued...)

The Department held a meeting in Boston on March 15 that was attended by Minda Cutcher of Covad; Thomas Maguire, Maureen Davis, and John Reed, Jr. of VZ-MA; and Cathy Carpino of the Department. Michael Clancy of Covad participated on a speaker phone.⁴ This discussion continued, via conference call, the following day, March 16, with the following participants: Minda Cutcher; Thomas Maguire; Maureen Davis; John Reed, Jr.; and Cathy Carpino.

Before discussing our analysis of and findings on Covad's I-Codes, a few initial comments and observations would be instructive. The Department commends both carriers for the level of cooperation demonstrated throughout the Department's review, as well as the companies' commitment to implement improvements to the acceptance testing process. The Department will continue its involvement with efforts to reduce I-Code rates though it recognizes that in some circumstances, it may be more productive for the regulator to stand aside and let the affected entities develop solutions that they deem most effective and workable. The Department intends to monitor future discussions on I-Codes between Covad and VZ-MA and will not hesitate to press both carriers to follow through on the implementation of the proposed process improvements, as set forth in Attachment 1 to this letter.

For the overwhelming majority of Covad's November 2000 I-Codes, VZ-MA does not dispute that Covad experienced troubles with those loops,⁵ a view supported by the Department's review of these I-Codes. However, VZ-MA's study was not designed to question whether a trouble actually existed on those loops but, rather, to determine whether that trouble would have been discovered during acceptance testing. Upon review, the Department concludes that only a few of Covad's I-Codes submitted in November involved what might be characterized as "factual disputes." Far more common was either a miscommunication or an inadequate sharing of information between the two companies' employees. And, of course, there were several loops that the Department determines simply did experience a "trouble" that would not have been discovered through the acceptance testing

³(...continued)
this filing.

⁴ Ms. Cutcher is vice president of ILEC relations - operations and Mr. Clancy is director of ILEC relations for Covad. Ms. Davis is executive director of CLEC maintenance, Mr. Maguire is vice president of CLEC operations, and Mr. Reed, Jr. is director of wholesale installation and maintenance for Verizon.

⁵ But see Attachment 2 (VZ-MA's analysis of Covad's I-Codes discussed in Clancy/Berard Decl. at ¶¶ 16, 17, 18, stating that, for the latter two I-Codes, although the VZ-MA technician changed the pairs, it was not clear there was ever a problem with the initial loop).

process.⁶

While the Department submits findings based on its review of Covad's November 2000 I-Codes,⁷ it is not the Department's intention to criticize either carrier's practices or personnel but, rather, to highlight areas for improvement. For example, it may be clear to the carriers' managers what the acceptance testing procedures are; however, it appears from the Department's review that the details of those procedures may not always reach the carriers' field technicians. Additional technician training by both companies will reduce I-Codes. Beyond summarizing the key events surrounding Covad's November 2000 I-Codes, the Department includes its findings and, where applicable, proposed process initiatives to reduce – if not eliminate – the number of similar trouble reports on a going-forward basis. Attachments 3 through 6 to this letter are a copies of the agreed-upon acceptance testing procedures in effect today; Attachment 1 is the list of proposed process improvements developed by VZ-MA and Covad; and Attachment 2 is VZ-MA's initial analysis of Covad's work logs summarized in the Clancy/Berard declaration distributed to both Covad and the Department on March 15, 2001.

Ms. Davis indicated at the Boston meeting that, when she reviewed I-Codes from last fall to determine whether an I-Code could have been prevented with proper acceptance testing (and, thus, excluded from VZ-MA's I-Code study), she made several assumptions about the acceptance testing process that, in retrospect, were based upon procedures that were not always followed. Namely, she assumed that an order with a serial number provided by the CLEC meant that a cooperative test was performed and the loop was accepted because the CLEC was satisfied that the loop was working.⁸ Ms. Davis then reviewed those I-Codes with serial numbers to determine whether the reported trouble was one that would have been detected with proper testing (e.g., no continuity, loaded pair, half ringer, short or digital loop carrier on line, foreign voltage, bridged tap, open or cross pairs) (see Sapienz/Mulcahy Supp. Decl. at ¶

⁶ See e.g., Clancy/Berard Decl. at ¶¶ 11, 25, 26.

⁷ In the interest of time, the Department's review encompassed only those Covad I-Codes that VZ-MA excluded from its study. Thus, we (the Department, Covad, and VZ-MA) did not discuss those loops contained in ¶¶ 29-32 of the Clancy/Berard Decl.

⁸ In support of this position, VZ-MA provided the participants with a copy of a Covad-created document dated April 10, 2000, which states that the agreed-upon serial number process is as follows: (1) if the Covad technician obtains a good test from the NID, he/she will provide the Covad order number as the serial number to the VZ-MA technician; (2) if the Covad technician is unable to test, he/she will provide a nine-digit serial number to the VZ-MA employee; and (3) if the Covad technician is only able to perform a one-way test from the central office, Covad will accept the circuit without providing a serial number (see Attachment 3, item 5).

102). It was this set of I-Codes that VZ-MA excluded from its study, the results of which are found in Attachment Y to the Lacouture/Ruesterholz supplemental declaration. In addition, Ms. Davis also noted that when she performed this I-Code review, she did not have the benefit of Covad's (or any other CLEC's) work logs, which provide greater detail about the circumstances encountered by that company's technicians. If she had that information, she indicated that she would have attributed fewer Covad I-Codes to acceptance testing problems.

II. ANALYSIS AND FINDINGS

A. Different Loop Lengths Resulting from Different Tests

The work logs of several Covad I-Codes indicate varying loop lengths depending on what day Covad performed its various tests.⁹ In their declaration, Messrs. Clancy and Berard offer several explanations for this occurrence, including the failure of VZ-MA technicians to test through the Network Interface Device ("NID") and VZ-MA technicians "stealing" Covad loops. Upon review, we make the following findings to explain the phenomenon of varying loop lengths: in several instances, VZ-MA's technician did not test through the NID but, rather, before the NID, at the cross box or at some other appearance on the line;¹⁰ the differences in length are not statistically significant (*i.e.*, the difference falls within the margin of error of the testing equipment used by Covad)¹¹ or can be attributed to the length of the inside wiring;¹² or the difference is due to technician confusion about the correct demarcation point.¹³ We find nothing in the information presented by either carrier to support Covad's assertion that VZ-MA's technicians used loops provisioned to Covad for another carrier.

Proposed Process Improvements: To address these issues, Covad and VZ-MA have proposed several modifications or additions to the existing acceptance testing process. First, VZ-MA has agreed to implement a process requirement that its technicians will "cut down" xDSL loops at the NID before the final cooperative test is performed (*see* Attachment 1, item 1). Similarly, Covad has agreed to insert the following question into the script followed by its operations center, "Are you testing through the NID?" (*see* Attachment 1, item 6.1). Second, to reduce technician confusion about where in VZ-MA's outside plant the cooperative test was performed, the carriers have agreed to enhance the demarcation information procedures by

⁹ See e.g., the loops discussed in ¶¶ 8, 9, 10, 11, 12, 13, 14, 15, 16, 20, 21, 22, and 23 of the Clancy/Berard Decl.

¹⁰ Id. at ¶¶ 8, 11, 15.

¹¹ Id. ¶ 11.

¹² Id. at ¶ 16.

¹³ Id. at ¶¶ 10, 14, 23.

establishing a three-fold process whereby the Covad technician can: (1) verify, pre-dispatch, that the loop was located and tagged by the VZ-MA technician during cooperative testing; (2) access VZ-MA's demarcation information electronically before dispatching to the field (assuming this is operationally feasible); and (3) call VZ-MA from the field if he/she cannot locate the demarcation point (see Attachment 1, item 8).

B. Half Ringers

Covad submitted a number of I-Codes to remove from loops half ringers¹⁴ that were undetected during the acceptance test with VZ-MA but that were discovered during Covad's "pre-dispatch scrub test."¹⁵ The Department finds that if VZ-MA's technicians had tested through the NID and not before it, Covad's operations personnel would have alerted the VZ-MA technicians about the presence of the half ringer, which could have then been removed and which would have negated the need to file a trouble ticket.

Proposed Process Improvements: To remedy this situation, VZ-MA has since made clear to its technicians that they should remove half ringers on all stand-alone xDSL loops and has agreed to reinforce this directive through the process improvement action register (see Attachment 1, item 2). Additionally, explicitly requiring the CLEC employee to ask, "Are you testing through the NID?" and "Have you removed any half ringer?" will ensure that xDSL loops with half ringers will not be accepted by CLECs (see Attachment 1, items 6.1, 6.2). The Department concludes that this additional technician training by both carriers will eliminate the need for CLECs to file I-Codes similar to the Covad tickets referenced in note 15.

C. Providing Serial Numbers Absent a Successful Cooperative Test

Contrary to the agreed-upon process for when Covad would provide VZ-MA with serial numbers (and Ms. Davis' understanding of this process when she performed her I-Code study), Covad's work logs show that its personnel occasionally provided VZ-MA's technicians with a type of serial number indicative of a successful cooperative test when such a test did not occur.¹⁶ As mentioned above in note 8, according to the agreed-upon acceptance process, Covad's technicians would provide the VZ-MA technician with Covad's order number as the serial number if the Covad technician obtained a good test from the NID.

¹⁴ Half ringers are devices commonly found at the NIDs of residential customers. These devices enable test equipment to determine whether the circuit has continuity to the NID. While half ringers do not interfere with voice service, they do create problems with xDSL service.

¹⁵ Clancy/Berard Decl. at ¶¶ 12, 21, 22.

¹⁶ Id. at ¶¶ 15, 17, 24, 27, 28.

Proposed Process Improvements: The Department finds that several initiatives will clarify the procedures about when Covad should provide a serial number indicating that a successful cooperative test was performed. For example, the carriers have agreed to implement a process for obtaining a final acceptance test when an earlier attempt at cooperative testing failed (Attachment 1, item 3). Additionally, the carriers agree to educate their technicians about interim loop testing versus final acceptance testing (Attachment 1, item 4).

D. Dispatching After Central Office Work but Prior to Cooperative Test

It became apparent during the Department's review of Covad's I-Codes that several times, Covad dispatched its field technicians to perform installation work after VZ-MA completed work in its central offices but before obtaining a successful cooperative test.¹⁷ This practice may result in an unnecessary Covad dispatch.

Proposed Process Improvements: As mentioned earlier, the carriers have agreed to establish a process to obtain a final cooperative test once VZ-MA completes its necessary central office work (Attachment 1, item 3.1). Further, if Covad dispatches a technician absent a successful cooperative test, the increased demarcation communication will prevent I-Codes based on 'tag and locate' and 'no demarc info' (see Attachment 1, item 8).

E. Miscellaneous Loop Problems

1. Loaded Pair

Covad opened one I-Code to remove a load coil from a loop.¹⁸ VZ-MA erred in providing Covad with a loaded pair though VZ-MA contends Covad's cooperative test should have discovered the loaded pair, and, thus, Covad should never have accepted the loop. The Department expects that the information contained in VZ-MA's enhanced loop qualification database will enable Covad, and other CLECs, to determine whether a loop is capable of supporting xDSL service prior to ordering the loop. Thus, the Department finds that no process improvement to the acceptance testing process is necessary to prevent similar occurrences in the future.

2. Significant Facilities Issues

Several Covad I-Codes resulted from significant facilities issues, and, in retrospect,

¹⁷ Clancy/Berard Decl. at ¶¶ 13, 24, 27.

¹⁸ Clancy/Berard Decl. at ¶ 8.

VZ-MA indicates that it should have simply denied service.¹⁹ As noted by the Department in its Evaluation filed in CC Docket No. 00-176, VZ-MA's copper plant is aging and it should not be unexpected that occasionally VZ-MA and CLECs would encounter facility problems (see D.T.E. Evaluation at 309, noting that VZ-MA's copper plant was installed between ten to 60 years ago). The Department can recommend no process solutions to prevent similar I-Codes from being submitted in the future. Obviously, the Department would like all requesting residential customers to obtain xDSL service, if they so choose, but we cannot ignore the limitations of either VZ-MA's plant or this technology.

F. Inexplicable Troubles on the Loop

1. Damage to the NID

One Covad I-Code resulted from damage to the NID subsequent to the cooperative test.²⁰ It is impossible to determine which carrier, if either, caused the damage, and, thus, we do not reach any findings designed to prevent similar I-Codes from being filed in the future. Moreover, we cannot conclude that this trouble would have been prevented by some existing or proposed acceptance testing procedure.

2. Loop in Service for Almost 30 Days

Covad filed an I-Code for a loop that had functioned for approximately 26 days.²¹ Based on the information provided by both carriers, the source of the trouble is unclear. However, once Covad reported the problem, VZ-MA's log indicates that it performed a pair change the following day, which cleared the trouble. While Covad's records indicate high noise on this loop, the only possible process fix that the Department can suggest is for Covad to share the results of its various tests with VZ-MA (see Attachment 1, item 5, where the carriers agree to allow VZ-MA access to Covad's Harris test system and test results). Based on the information before us, the Department cannot conclude that this I-Code could have been averted through any action by Covad.

III. CONCLUSIONS

We do not discount the significance of Massachusetts customers losing their xDSL service or being so inconvenienced by rescheduled appointments and delays that they cancel their orders (attributing the cause to, perhaps, the wrong carrier). However, we conclude that

¹⁹ Id. at ¶¶ 15, 28.

²⁰ Clancy/Berard Decl. at ¶ 11.

²¹ Id. at ¶ 19.

if the proposed process improvements, set forth in Attachment 1, had been implemented last fall, Covad would have opened far fewer I-Codes in November. Given the aging outside plant with which VZ-MA and CLECs must work, New England weather, and constant construction around VZ-MA's outside equipment, some troubles simply cannot be avoided. The Department is encouraged by the progress made by Covad and VZ-MA in a matter of days. As we noted above, we intend to remain vigilant, monitoring the carriers' implementation of the proposals and, if necessary, serving as a facilitator. Where appropriate, we will direct VZ-MA and Covad to implement additional measures.

Before the Department began the discussion of Covad's I-Codes last Thursday, the Department staff person overseeing this review asked both carriers whether they were certain that Covad and VZ-MA were following the same acceptance testing procedures. All of the participants indicated that confusion about these procedures was not the source of the I-Codes and that the carriers were, in fact, following the agreed-upon process. After reviewing the first handful of orders, it became apparent to all involved that (A) the carriers' technicians did not always adhere to what the participants believed to be the cooperative testing procedures and (B) the existing process needed to be supplemented with details necessary to assist both carriers' employees in understanding what is required of them during the acceptance testing process.

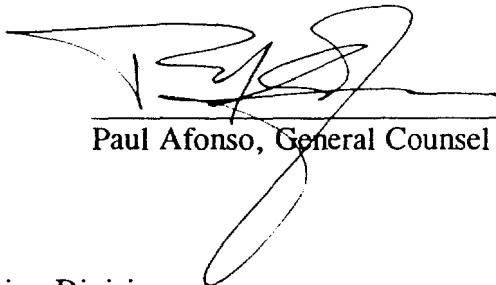
Some solutions are quite simple and can be implemented almost immediately. For example, Covad has agreed to modify the script used by its operations center personnel to ensure that VZ-MA's field technicians are testing through the NID and to confirm the demarcation point. The Department was struck by how frequently miscommunication between the carriers' technicians about the location of the demarcation point resulted in wasted dispatches and unnecessary trouble tickets. Similarly, VZ-MA has agreed to establish a process for dispatched Covad technicians to contact VZ-MA to verify the demarcation point or to verify that the loop has been located and tagged by a VZ-MA technician before the Covad counterpart is dispatched for the installation work. Also, Covad and VZ-MA will both use greater efforts to accurately report and record phoned-in troubles (as opposed to troubles submitted electronically) to avoid the "no continuity" catch-all phrase that appears to be used generically by both carriers to describe a variety of troubles. Being more specific will enable the trouble to be repaired sooner (or will permit VZ-MA to provide the Covad technician with information that may negate the need for a trouble ticket) and may curb unnecessary dispatches. Furthermore, within the next few weeks, VZ-MA will have access to Covad's Harris test systems (and the system's test results). This added functionality will enable VZ-MA to trouble-shoot problems more quickly.

Although the technician training-related proposals are not complex (e.g., re-emphasize that cooperative testing must be performed through the NID and that half ringers must be removed from all xDSL loops), the Department cannot say how much time is required to educate (or, more appropriately, re-educate) the companies' technicians. It is our expectation that the carriers will begin this training immediately. Other proposed improvements will

require additional time. For example, both carriers agreed that enabling Covad to have electronic access to demarcation information contained in VZ-MA's Workforce Administration Dispatch Out database will result in fewer 'tag and locate' and 'no demarc info' trouble tickets. However, it is unknown to the Department how quickly VZ-MA can make such information available to Covad and other CLECs.

Again, the Department notes its appreciation of the time-consuming work performed by all participants, which was completed within the abbreviated period of time that we provided them. We were especially pleased that participants of both carriers readily offered improvements to the existing acceptance testing process that are workable and should prove effective in reducing the number of I-Codes filed by Covad. The Department encourages VZ-MA and Covad to export these proposed process improvements to other states and to use them with other carriers. We hope that the information contained in this letter, together with the accompanying attachments, is responsive to the request made by FCC staff. If additional analysis is required, the Department will endeavor to provide that information as quickly as possible.

On Behalf of the Massachusetts Department
of Telecommunications and Energy,

A handwritten signature in black ink, appearing to read 'Paul Afonso', is written over a horizontal line. The signature is stylized with a large, sweeping initial 'P'.

Paul Afonso, General Counsel

cc: Susan Pie, Policy and Program Planning Division
Common Carrier Bureau, Room 5-C224

Josh Walls, U.S. Department of Justice
Antitrust Division